

January 8, 2007

**I. Call to Order/Roll Call/Opening Ceremonies**

Chairman Vispoli called the Regular Meeting of the Board of Selectmen to order at 7:00 p.m. Selectmen Teichert, Major and Chairman Vispoli were present. Selectmen Lyman and Hess arrived shortly thereafter. Also present was Town Manager Buzz Stapczynski and Town Clerk Randall Hanson. The Chairman called for a moment of silence followed by the Pledge of Allegiance. Recording Secretary Elizabeth A. Kochakian took the minutes. This meeting was duly posted and cablecast live.

**II. Communications/Announcements/Liaison**

Town Manager Stapczynski:

- There will be a joint meeting this Wednesday with the School Committee on in the School Committee meeting room. They will have an Executive Session first from 6:00 p.m. to 7:30 p.m. and the Open Meeting will start at 7:30.
- Three Selectmen will be attending the Massachusetts Municipal Association meeting. The new governor will be there and they hope to hear about local aid. The Manager said he received a call from the MMA that they are getting a couple of awards. The following was decided:
  - Selectman Major will be a voting delegate Saturday morning.
  - Selectman Teichert will be a voting delegate at lunch.
  - Selectman Major will receive the "Lost Control Award."
  - Selectman Teichert will attend the Award ceremony at 6:00 p.m. on Saturday.
- The Town's Annual Comprehensive Annual Financial Report (CAFR) report is now out and on line. It is the report that the Town Accountant, Rod Smith, and his staff put together for FY-06.
- He is looking for five citizens interested on serving on the Town's newly formed Audit Committee. He said there were three or four people who have put their names forward. He would like to get that going in February.
- The Manager said he was pleased with the way the holiday lights on Main Street turned out this year. They have 21 trees lit and the cost for doing that was very reasonable. They received donations from about 20 different companies/individuals who have businesses or own property on Main Street. That helped in a big way to cover the costs and pay for the utility charge for that.
- This year when the Youth Services had their Christmas trees, wreaths, etc. sale, somebody stole their generators that caused a problem and delay until replacements were found. Evidently, the incident was picked up by Fox news and broadcast around the country. His cousin, Stephen Stapczynski, who lives in Phoenix Arizona, sent the Manager \$20 in a Christmas card after hearing about the bad fortune in Andover.
- Randy Hanson gave a brief report on the upcoming March 27<sup>th</sup> election. She said that this year they have open seats for Moderator, Board of Selectman, School Committee and Housing Authority. People who have expressed interest and taken out papers are: Moderator: Shelia Doherty, Eric Nadworny, Kenneth Ozoonian and David Samuels. Board of Selectmen: Mary Carbone, Don Robb, Joseph Leone and Alex Vispoli. School Committee: Richard Coffill, Dick Collins and Debra Silberstein. Housing Authority: Jan Berkholder. Ms. Hanson reminded that on January 11<sup>th</sup> at 7:00 p.m. they are going to have a seminar for people interested in running for office. Campaign finance people from Salem, Massachusetts will be here to talk about campaign financing involving elections. Selectmen and School Committee members will also explain what it is like to run for office. Ms. Hanson said the Census went out Friday. She encouraged residents to return them as soon as possible.

Selectman Mary Lyman arrived at this time.

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II. Communications/Announcements/Liaison (Cont.)

Selectman Brian Major:

- Last Wednesday evening the School Task Force had their first meeting to take a look at the capacity as well as the quality and condition of the schools for the potential of building/renovating schools in the future. He said that everyone on the committee participated very well. They highlighted all the information they need to look at over the next couple of months. Selectman Major said their goal is to come back to the School Committee and Selectmen sometime the end of March or April to give an overview report to determine what the next steps are to take as a Board. Next week there will be another meeting on the 17; the week of the 27<sup>th</sup>, they plan to visit all the different schools and do a walkthrough to look at condition and capacity of different classrooms that are being used, etc. Selectman Major said a lot of activity will take place in the next two months and that it started off very well.
- This Friday at 7:30 p.m. in this room they are going to have a subcommittee meeting for the Andover Youth Center.

Chairman Alex Vispoli:

- Gave the Board an update on the subcommittee he and Selectman Lyman are working on regarding town vehicles. He said this started with looking at the 17 vehicles that go home every evening for a broader perspective and a policy for things like stipends and use in general. He said that Assistant Town Manager, Stephen Bucuzzo has been valuable in helping them pull data from other towns. The strategy was to get best practices from as many towns as they could to see what other towns are doing; they also got tremendous assistance from Selectman Major with compiling the presentation of data as well. They are in the middle of that process.

Selectman Lyman added that they are looking at communities that are part of their comparable group but not everyone got back to them but they did get a fair showing. She said a hard copy will be E-mailed to the Selectmen to review the data they are looking at. The next step would be to meet with the people that are affected, those who have cars. She said she will be calling the Town Manager to set an appointment to meet with those people.

III. Approval of Consent Agenda Items

A. Appointments and Re-appointments

It was moved by Selectman Teichert that the Board approve the following appointment by the Town Manager:

DEPARTMENT	POSITION	RATE	EFF. DATE
A. <u>Appointments and Re-appointments</u>			
FIRE DEPARTMENT			
Michael B. Mansfield	Fire Chief	M3	2/4/07
	(v. C. Murnane, Jr.)		

The motion was seconded by Selectman Major, voted and approved

4-0.

III. Approval of Consent Agenda Items (Cont.)

January 8, 2007 (Cont.)

A. Appointments and Re-appointments (Cont.)

Michael Mansfield was present at the meeting and was congratulated by the Manager on his appointment being confirmed. Mr. Mansfield introduced the people that joined him this evening, his girlfriend Julie MacPhee and his brother from Nashua PD, Lt. Bill Mansfield. He thanked everyone that had anything to do with the hiring process and said he really appreciated all they did. He felt the process was well thought out and very thorough. By doing that process, he said it will pay off to the Town of Andover and specifically the Fire Department for the next several years to come. Mr. Mansfield said he was looking forward to beginning his career with the Andover Fire Department and to serve the Town of Andover. He received a loud round of applause and handshakes from the Board.

It was moved by Selectman Teichert that the Board approve the following appointments by the Town Manager:

Charles H. Murnane, Jr. Acting Fire Chief                      M3            1/17/07 -    2/3/07

COMMUNITY SERVICES

Katharine Matsumoto	Enrichment Instructor - PT	****
12/26/06		
Andrew Hennessy	Basketball Program Staff - PT	C5A
12/26/06		
Matthew Pehrson	Winter Program Staff - PT	C2A
12/26/06		

\*\*\*\* Stipend varies with course

POLICE DEPARTMENT

Kelley Davis	Matron - PT	\$18.00/hr.
1/9/07		

The motion was seconded by Selectman Lyman, voted and approved 4-0.

It was moved by Selectman Teichert that the Board approve the following appointment by the Board of Selectmen:

ZONING BOARD OF APPEALS

Richard W. Sweitzer - Associate Member - Term to expire June 30, 2007

Selectman Lyman seconded the motion. With no objections, the motion was voted and approved 4-0.

The Manager noted that the former Chairman of the Board of appeals, Dan Casper, was present at the meeting. He commended Mr. Casper for his almost 20 years of service to the town as a member of the Board and Chairman for a number of years.

IV. Citizens Petitions and Presentations

January 8, 2007 (Cont.)

A. William T. Downs, 147 Elm Street

William T. Downs, 147 Elm Street, appeared before the Board. He first noted his service to the Town; 31 years in the Andover Fire Department, retired Chief of the department, 12 years as member of Board of Selectman, and 18 years as Chairman of the Retirement Board.

Mr. Downs made a presentation pertaining to Chapter 571. He said that Chapter 571 was approved July 26, 1956, accepted in 1958 and amended in 1974 to make Selectmen policymakers. "The Board of Selectmen shall be considered as the makers of policy of town government and set as otherwise directed by statute and town charter. The Town Manager shall be responsible for insuring that the boards and officers represented in town comply with the policies determined by the Selectmen." The Charter was again amended in 1996.

Mr. Downs said he wanted to talk about Section 5, "Local Officers" because he felt there has been a violation and cavalier attitude of the interpretation of this section. This includes the Board of Selectmen, School Committee, Finance Committee, Town Counsel, Town Manager, Town Clerk and Superintendent of Schools. He then cited the following examples: No. 1: 20 years ago when he was first elected to the Board of Selectmen, the Town Manager advised him that he would have to resign from the Veterans Holiday Committee, Street of Flags Committee and Chairman of the Retirement Board in order to comply with Chapter 571, Section 5. He did so. No. 2: An individual was appointed to the Finance Committee, served 3 months and applied for a position in Town Government. The individual was advised by the Town to wait a couple of months and then be appointed. No. 3: A person was appointed to the Finance Committee for a 3 year term, was near to the end of the second year term and ran for School Committee and got elected. No one even questioned that. No. 4: A member of the School Committee announced that he was going to run for Moderator and if he was elected he would resign from the School Committee. This is a no, no. He takes out papers and is told that he must resign from the School Committee before the election; this is also a no, no. According to Section 5 of the Charter, he is not eligible to be elected as a moderator until the end of his 3-year term.

Mr. Downs said that it seemed that somewhere along the line someone recognized this is a problem and had Section 5 of the Charter amended on September 23, 1996, "to all of the School Committee, an administration representative of the Superintendent of Schools shall be appointed by the School Committee to serve on the School Building Committee."

Mr. Downs said he knows the Finance Committee was aware what Chapter 571, Section 5 was all about because they inserted in 2006 annual town meeting, an article "to see if the Town will vote to authorize the Board of Selectmen to petition the legislature to amend the Town Charter." This article was defeated at Town Meeting but understands that Audit Committee did get appointed. It was printed in the Eagle Tribune on January 2, 2007 that "the Auditing Committee might seem redundant but the Town Manager said it is necessary. He is looking for five residents to serve; a member of the Finance Committee, Selectmen and School Committee will serve as non voting members of the new committee. He understands the Auditing Committee has been appointed.

Selectman Hess arrived at this time.

IV. Citizens Petitions and Presentations (Cont.)

January 8, 2007 (Cont.)

A. William T. Downs, 147 Elm Street (Cont.)

Mr. Downs said he didn't know if in the article he referred to whether the Selectmen, School Committee, Finance Committee, are members. He then gave the definition of liaison: Communication between different groups; a channel or means of communication, connection or link.

Mr. Downs said that the School Facilities Task Force at a recent dual-Board meeting, Town Counsel stated that the composition of this Board, the Task Force, was a violation of the Town Charter on this section of the Charter. After discussing this subject for more than an hour and hearing all the excuses and reasons why the tri board does not have to abide by the town counsel's opinion, the composition of the Task Force was approved unanimously by both Boards. The Manager said this is not a voting group. Mr. Downs said in his opinion that does matter. The group will study school building space needs. The article read that there was a debate whether town or school administration should be granted representation of the group.

Mr. Downs said that local board officers are subject to the approval by the Board of Selectmen. The Town Manager may without additional compensation assume powers, duties and responsibilities of any officer which is authorized to fill by appointment, such assumption to be limited on filing by the Town Clerk a written declaration of such assumption, signed by the Town Manager except he shall not appoint himself as a member of any board of committee. Town counsel advised the Board that the appointments of members of the Board of Selectmen, School Committee and Finance Committee are a violation of Section 5 of Chapter 571. The board members involved in many task forces are also in violation Chapter 571, Section 5. Mr. Downs said he has tried to discuss this Section with the Town, Manager, Town Counsel and some of various boards but to no end. At this point, he didn't know where to go with this but decided to try the Attorney General's office, District Attorney and Ethics Commission. One of the problems with officials being involved with this is the improper or unlawful execution of an Act that in itself is lawful and proper.

Mr. Downs said he was petitioning the Board of Selectmen to ask Town Counsel for a legal opinion in writing what is allowed and not allowed in Chapter 571 Section 5 and overall view of the Town Charter. He did not wish to hand the Board the petition. Selectman Major agreed that they should get an opinion from Town Counsel concerning Chapter 571, Sec. 5 as to what is permissible amongst the elected officials and Finance Committee and what is not. On the question of the Task Force for the schools, he said the liaisons from the Selectmen, Finance Committee and School Committee are not members and do not vote. There are 6 members on that committee. The Manager said the Audit Committee has not been appointed yet. It will be made up of five citizens and the liaisons will be non voting members from the Selectmen, Finance Committee and School Committee. In answer to Selectman Teichert, Mr. Downs said his concerns involve issues over the last 20 years.

Town counsel was present and was asked to comment on this. Atty. Urbelis said Mr. Downs and he have had discussions about this over the years. It is fair to say they have different interpretations what is or is not allowed but glad to respond to his request.

IV. Citizens Petitions and Presentations (Cont.)

B. Jack Whelan, 8 Avery Lane

January 8, 2007 (Cont.)

Jack Whelan, 8 Avery Lane, appeared before the Board, about his concern about the development of Avalon Bay on River Road. He said they feel it was a bad idea four years ago and still think it is still a bad idea. He understood the Board's position where they can vote tonight to appeal the decision by the superior court that said the Town should be authorized to connect up to the Tewksbury sewer system. He did some homework on this to see if he can convince the Board to look at the impact of what this is about.

Mr. Whelan said this is not a backyard issue; it is about safety for the town and about preserving something that is important to the town that is the environment of the town. Most importantly if this apartment complex is allowed to be put on River Road, he felt it would be in a very serious situation for legal exposure for the town. He knows the Selectmen tonight are concerned about the legal exposure if they fight this but there is a much bigger issue and that is the safety issue. He said the nearest fire station, West Station, is a long distance away from this complex and the Town of Tewksbury has debated with the funding of the closest fire station to that complex and a good chance that that station will be shut down. The City of Lowell which has always been another source of fire protection there he felt was a bad idea. If he were a fireman, Mr. Whelan said he wouldn't want to be situation where time is against them. For that purpose alone he felt it was not safe.

Mr. Whelan's second concern was the traffic situation. He said that River Road is a country road. He lives on Avery Lane and every winter there is a major ice problem out there. Neighbors have to warn passing motorists that there is an ice skidding situation. If they add more traffic to an already overburdened road he felt that would be another problem. Third, most recently Melmark School just opened up there and that added 2-300 cars a day, traffic to and from the school. Most of that traffic is not familiar with the dangers of that road.

Mr. Whelan said his appeal to the Selectmen is that they appeal the decision to the Superior Court do what is necessary to fight back on this. Chairman Vispoli said that the whole issue about site impact was taken up by the Zoning Board of Appeals. That was a decision the town couldn't vote again after it had been voted on once prior. A legal opinion was rendered on that.

Town Counsel, Tom Urbelis, appeared before the Board and gave a brief outline of the history of this issue that started in 1997 when Town Meeting voted to offer an Intermunicipal agreement to allow Tewksbury sewer to tie into the River Road area.

- In 1998 an Intermunicipal agreement was signed between Andover and Tewksbury that authorized that sewer connection but limited to the new monastery for Poor Sisters St. Clair and limited the connection to that one particular property owner.
- The sewer line was constructed by a private developer at no cost; the new monastery was constructed for the sisters.
- 2001 there was an application by Avalon Bay for a 40b application consisting of 152 units in seven buildings; the Zoning Board denied that application. Avalon appealed the Zoning Board's denial to the Housing Appeals Committee and it was approved.

IV. Citizens Petitions and Presentations (Cont.)

B. Jack Whelan, 8 Avery Lane (Cont.)

- In 2002 hearings about to commence on Avalon Bay appeal and Housing

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Appeals Committee recommended a mediation process. That then occurred with participants Avalon, Zoning Board and representatives from the PAZ, the Protect Andover Zoning group. They were participants in that mediation.

- Mediation resulted in a revised application submitted to the Zoning Board of Appeals of 115 units in one building; 29 of the units would be affordable units.
- In May of 2002, Avalon, Board of Selectmen and Zoning Board held a public hearing and approved amended application.
- Since all of the units in that projects are rental they all count for the Town's 10% threshold for Chapter 40b purposes.
- That same month in May 2002, Avalon and Board of Selectmen entered into an amendment of the 1998 agreement that permitted sewer for this particular project.
- The next month representatives of PAZ filed an appeal in Essex Superior Court of that approval under 40B by the Zoning Board of Appeals.
- While that case was pending at 2003 Annual Town Meeting, Article 41 was passed. That article basically rescinded prior approvals of all Intermunicipal Agreements and any authority the Selectmen had to enter into them. At that point Avalon and the Poor Claire sisters appealed that Town Meeting vote to the Essex County Superior Court for declaration of invalidity of town meeting vote. There were no claims for damages at that time by Avalon.
- The case went through Superior Court eventually ended up in the Mass Supreme Judicial Court, the highest in Massachusetts, and in June of this year the Supreme Judicial Court dismissed that appeal. There are no further appeals available on that particular lawsuit for that group.
- In December of last year, 2006, in the case brought by the Avalon group and the Sisters against the town, the Essex County Superior Court rendered a decision with regard to that article 41 of the 2003 town meeting. The Board had a copy of that decision. The court ruled the following judgment:
  1. Article 41 of the 2003 Annual Town Meeting did not rescind or annul the May 2002 amended to the 1998 agreement or the 1998 agreements.
  2. The 1998 agreements had never expired.
  3. The Poor Claire nuns and Avalon are both entitled to tie into and use the new connection.

Atty. Urbelis said the Town has 30 days to appeal that decision up to the Massachusetts Appeal Court. The Board received today a letter from the attorney of Avalon Bay urging an end to this litigation as well as other E-mails from certain citizens. Atty. Urbelis said this was the basic time line, chronology where they are now.

Dan Casper, 232 Andover Street, appeared before the Board to speak on this issue. He said he formally served on Zoning Board of Appeals and was very familiar with this project and was chairman at the time. He said Mr. Urbelis gave the Board a full rundown of everything that happened. They went through a very long process and ended up approving this.

IV. Citizens Petitions and Presentations (Cont.)

B. Jack Whelan, 8 Avery Lane (Cont.)

The sole issue is whether or not those who are opposed to this project can make it an Enron by going back and trying to invalidate the Intermunicipal Line

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sewerage agreement. Mr. Casper said this is a project well thought out and approved by the highest court and urged the Board not to appeal.

After all discussion, Chairman Vispoli said they will be meeting on this further in Executive Session.

V. Public Hearings

A. National Grid

A public hearing was held to hear the request of National Grid for permission to locate poles, wires and fixtures, including the necessary sustaining and protecting fixtures, along and across the following public way:

- Argilla Road at Cattle Crossing - approximate location shown on Plan No. 1973369, dated 12/19/06.

The request has been reviewed and approved by the Department of Public Works subject to the condition that a street opening permit must be obtained from the DPW prior to the commencement of the work and that the installation of the pole and anchor is to be 3 feet from the edge of the road.

David Boucher, from National Grid, was present to explain the request and to answer questions. The request is to place a new pole on Argilla Road as shown.

Timothy Wright, 81 Argilla Road, said he wanted to make sure there was just one pole put up. He was assured it was one pole.

The Board read the letter they received from Andrew Rouse, 5 Cattle Crossing. He told the Selectman Cattle Crossing has no poles and all wires are underground. He asked if they can eliminate the pole in the intersection of Argilla and Cattle Crossing and move the wires underground. He would be willing to pay the extra cost to eliminate a pole at this location. Mr. Boucher said he was not sure what they can do or if it can be done at this time. He said he will contact this resident to see if they can resolve his request. Mr. Wright noted that the pole is on Argilla and not on Castle Crossing.

It was moved by Selectman Major that the Board of Selectmen continue this public hearing until January 22, 2007 at 7 p.m. The motion was seconded by Selectman Lyman voted and approved 5-0.

B. Comcast

A public hearing was called to hear the request of Comcast for permission to construct a line of underground broadband conduits, including the necessary sustaining and protecting of fixtures, under and across the following public way:

- Rocky Hill Road at Charles Circle - approximate location shown on Plan No. 399, dated November 21, 2006.

V. Public Hearings (Cont.)

B. Comcast (Cont.)

The request has been reviewed and approved by the Department of Public Works subject to the condition that a street opening permit must be obtained from the DPW prior to the commencement of the work.



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Pat Spikers, Project Coordinator for Comcast, said this was a part of a new street put in. They are asking that once the conduit is placed they want to take ownership of that 10' of conduit in the Town's right a way.

It was moved by Selectman Major and seconded by Selectman Lyman that the Board approve the above request. The motion was voted and passed 5-0.

C. Verizon New England, Inc.

A public hearing was called to hear the request of Verizon New England, Inc. for permission to lay and maintain underground conduits, pedestals and manholes, with the wires and cables to be placed therein, under the surface of the following public way:

- Rocky Hill Road at Charles Circle - place approximate 10 feet of underground conduit - approximate location shown on Plan No. 399, dated November 21, 2006.

The request has been reviewed and approved by the Department of Public Works subject to the condition that a street opening permit must be obtained from the DPW prior to the commencement of the work.

With no objections to this request, it was moved by Selectman Major and seconded by Selectman Hess that the Board approve the above request. The motion was voted and approved 5-0.

D. National Grid and Verizon New England, Inc.

A public hearing was called to hear the request of National Grid and Verizon New England, Inc. for permission to locate poles, wires and fixtures, including the necessary sustaining and protecting fixtures, along and across the following public way:

- Rocky Hill Road at Charles Circle - approximate location shown on Plan No. 1381882, dated December 5, 2006.

The request has been reviewed and approved by the Department of Public Works subject to the condition that a street opening permit must be obtained from the DPW prior to the commencement of the work.

David Boucher was present to explain the request and answer questions.

With no objections, it was moved by Selectman Lyman and seconded by Selectman Major that the Board approve the above request. With no objections, the motion was voted and approved 5-0.

VI. New Business

A. Karen Herman, Chair of the Design Review Task Force, and Senior Planner Lisa Schwarz to Present Task Force Final Report

This discussion was postponed to the next meeting of the Selectmen.

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B. League of Women Voters - Presentation re: "Change a Light - Change the World" Light Campaign

Rebecca Backman appeared before Board from the League of Women Voters of Andover/North Andover. With her was Stefani Trainor Goldshein, President of the League. Ms. Backman said the "Change a Light - Change the World" light campaign is a direct way to address global warming issues. She said the League has taken the position nationally that global warming is real. According to the health specialists who understand that, she said that ragweed is an increasing problem because of the rise in CO2 levels; poison ivy is growing more potently and vigorously because of increase in CO2 levels; and Asthma levels are on the increase.

Ms. Backman said that professionals would all say that every technique and the technology exists right now to address the problem. They have to recognize that the United States is 4.5% of the world's population and generates almost 30% of the world's greenhouse gases. She said this campaign is a wonderful way to change their own energy output in their homes, to use Compact Fluorescent Light bulbs. She said that Fluorescent light bulbs use 1/4 to 1/3 of the energy of regular incandescent light bulbs. If one changes five of these bulbs in their house, they will save \$60 a year on energy costs.

Ms. Backman said they have spoken with the Town Managers' from both Andover and North Andover about the idea of having a challenge between the two towns. She passed out an informational packet and said they are still working on the Challenge brochure. Each town is now registered to change 1,000 light bulbs by spring town meeting. Ms. Backman said the bulbs contain mercury and cannot be thrown out in the trash and they need to be disposed of with hazardous waste. She said they have a meeting with the Town wide PTO's; they are looking to get students involved and have challenges between the schools or between grades. All of that is being worked out by a girl scout as her gold project on global warning. Selectman Vispoli suggested the Boy Scouts do that for their Eagle projects.

Ms. Backman explained the process and how to take the pledge online. She said they would also like to get the information on the Town's website. As a further tip, she said if you have appliances on your counter with any light on them that appliance is drawing energy all the time and that the toaster does not have to be plugged in all time. She said there are a lot of things they can do to cut down on energy consumption.

After all discussion, Chairman Vispoli thanked Ms. Backman and the League for sponsoring this.

C. Draft List of Legislative Priorities for the Governor and Andover's Legislative Delegation

Discussion postponed to the next meeting.

VI. New Business (Cont.)

D. Town Manager Presentation on the Sale/Disposition of Tax Title Property

In an effort to generate some revenue and follow up on a suggestion by the Selectmen, the Manager said he looked into what Town property they had in their coppers. He looked into whether they can sell property on an open market, to a

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developer, move it to another board or committee like Conservation Commission or sell property to adjacent land owners. He identified about 11 parcels that have some potential for making some money for the town. Property they have forecloses on, taken for taxes, and have not been designated for any municipal purpose. The combined assessed value of these properties is \$1.8m but they may sell higher than that and all are located in residential zones. He said the law allows them to sell tax title property with approval of the Board of Selectmen. They had them reviewed by Community Development and Planning and based on that review, they think 3 of the parcels need more internal discussion and come right off the list; six parcels they think they can sell with the Selectmen's approval. The Manager said that one of those is 463R So. Main Street. The Conservation Commission would like to hold on the sale of that because it may link a parcel they own in back of it. A warrant article this year will ask that a small parcel at 37 River Street will seek the transfer to the Conservation Commission because it could provide access to the Shawsheen River. That leaves them with a rather large 8-acre parcel; at the end of Tucker Road off of Gray Road at the Andover/North Andover line. They think that has potential so rather than selling it they would like to take it town meeting and get their approval to sell it and get serious money for the town. The Manager said they don't need town meeting to sell it but the fact that it is 8 acres and potential for multiple house lots, the staff felt that it would be in their best interest to have a warrant article at town meeting to sell it.

Discussion was held on what to do with the money if they start doing this. Selectman Major said one potential would be to set up an account, put money in it, have it available so if a parcel comes up in the future, i.e., for the development of the town yard, they will have the money to buy it. Selectman Lyman with the need for free cash, she would be concerned about setting up such an account for the town yard. Teichert wondered what would happen if no one buys the properties. The Manager said their option is they do nothing. However, if they sell them and get a reasonable amount of money they will go back on the tax rolls.

Selectman Lyman was concerned over putting only one of the parcels to Town Meeting. She wondered how neighbors of the other lots know they can bid on this. Chairman Vispoli felt there ought to be a better process and would like to see them all go to town meeting. Selectman Lyman said her feelings are to just try to make this a public process for those who are most effected which are the abutters more so than town meeting which many of the people would not know the lots are being effected by them. If they set a precedence of taking this to town meeting and they get something in the future that they would want to dispose of soon they would have to wait a long time again. She said she would rather see them set up a good working process that necessarily will not require town meeting. She suggested they ask Community Development and Planning to set up a potential process if they didn't use town meeting how we could do it. She said in the first stage it has to come to the Board for approval but start notifying the public that they are going to begin the process and then whatever other steps appropriate for legal purposes and also to be fair to the neighborhood.

**VI. New Business (Cont.)**

**D. Town Manager Presentation on the Sale/Disposition of Tax Title Property (Cont.)**

It was moved by Selectman Lyman that they ask Community Development and Planning to set up a procedure for the Selectmen to come back to review.

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The motion was seconded by Selectman Major.

Mary Carbone said she agreed it was very important abutters of any open space parcel be notified before anything is done. In her opinion they have always asked town meeting for various funds to purchase open space land. She wondered why it was necessary to sell off these parcels for tax purposes. If it is for tax revenue issues, couldn't they leave the property there as open space. Selectman Hess suggested they look to see if these parcels would be good for neighborhood playgrounds.

After all discussion, the motion was voted and passed 4-0-1 (Selectman Teichert abstained).

A discussion was held on the parcels that would go to Town Meeting. Chairman Vispoli felt they should include all of them and cover their options. He thanked the Manager and his staff for pulling this together.

E. Board Sets the Town Manager's Compensation for FY-07

It was moved by Selectman Major that the Board of Selectmen set the Town Manager's FY-07 base compensation at \$126,500 with a \$4,000 performance goal base achievement award for a total compensation for FY-07 of \$130,500. Selectman Lyman seconded the motion.

Selectman Major noted that the salary adjustment represents approximately a 2.84% increase over FY06. With no objections, the motion was voted and passed 5-0.

The Manager said he appreciated the Board's consideration on that and the process they went through.

F. Board to Set January, February and March Meeting Dates

The Board reviewed the draft 2007 Joint Board of Selectmen and Finance Committee Budget Meeting schedule and after discussing dates changed or added the following meeting dates:

January 12	7:30 a.m. Meeting with the Youth Center
January 16	7:00 p.m. School Committee Meeting Room
January 22	7:00 p.m. Regular Board of Selectmen Meeting
January 29	Swearing-In Ceremony Fire Chief - Reception 4:00 p.m. to 6:00 p.m. Swearing-In Ceremony 5:00 p.m.
February 5	Regular Board of Selectmen Meeting (invite Finance Committee)
February 7	Budget Review
February 12	Budget Review
February 26	Regular Board of Selectmen Meeting & Warrant Articles and CIP
February 28	Board of Selectmen - If needed

VI. New Business (Cont.)

F. Board to Set January, February and March Meeting Dates (Cont.)

March 5	Regular BOS meeting - sign the warrant
March 7	Budget meeting w/SC in School Committee Room
March 12	Budget Review Meeting
March 15	Street acceptances before Budget Forum

January 8, 2007 (Cont.)

March 16        Budget Forum in the a.m.  
March 19        Board of Selectmen Meeting - Budget votes  
March 21        Meet if needed  
March 26        Regular Board of Selectmen Meeting - Budget Votes  
March 30        Meet if needed

**VII. Old Business**

A.     Board to vote on the FY-2008 - FY-2012 Capital Improvement Program

The Manager passed out to the Selectmen a copy of the Summary Sheet of the CIP recommendations that was on page 5 out of the CIP. He asked the Board to endorse the CIP model as it is being recommended pending development of the budget for FY08. Although some items may fall by the wayside, he said by having this vote, it will give him the direction he needs to pull together the budget hearings. He said the items that have to do with the request for the contingent debt exemption votes for the sidewalks and school roofs may have some controversy. The Manager suggested they have two set of warrant articles, one with the debt exemption and one without which he will put them in for place holders on the 19<sup>th</sup>; the warrant will not be approved until March 5.

A discussion was held on the vote to approve the CIP. Selectman Hess asked the status of a couple of the citizens' requests that may have been done or will be done before Town Meeting thus no need to put them on the CIP. Selectman Lyman felt they should clarify what was left. The Manager noted that three items, High Plain/Rolling Ridge Crosswalk and pad; Paving of Buchan road; and Park Street Parking Lot Fence Repair, are already in the works. It was suggested that they include all of the Citizens' requests in the CIP at this time.

After all discussion, it was moved by Selectman Major that the Board of Selectmen endorse and approve the FY-2008 CIP model as presented by the Town Manager. The motion was seconded by Selectman Teichert voted and approved 5-0.

**VIII. Approval of Consent Agenda Items**

A.     Clown Town

Selectman Lyman read the request made by Jackie Branscombe, Andona Society Ways and Means Chair, for permission to conduct Clown Town in The Park on Friday, May 18, 2007 from 6:00 P.M. to 10:00 P.M. and Saturday, May 19, 2007 from 9:30 A.M. to 4:30 P.M. (rain/snow date is Sunday, May 20, 2007 from Noon to 5:00 P.M.). She is also requesting permission to use the parking lots adjacent to The Park and those behind the Senior Center and Doherty Middle School during their event, to begin setting up the rides on Wednesday evening, May 16<sup>th</sup>, to allow "No Parking" on the Bartlet Street side of The Park and to extend the hours of the DJ from 9:00 P.M. to 10:00 P.M.

**VIII. Approval of Consent Agenda Items (Cont.)**

A.     Clown Town (Cont.)

The request has been reviewed and approved with conditions by the Police Department with the following exceptions: they recommend disapproval of the "No Parking" on the Bartlet Street side of The Park and that the DJ hours end at 9:00 P.M. as outlined in The Regulations for the Use of The Park.

Denise Fornaro was present representing the Andona Society. She said this was their annual request and understood about the Bartlet Street parking.

January 8, 2007 (Cont.)

Chairman Vispoli said that last year they kept the DJ hours to 9:00 p.m.

After a discussion, it was moved by Selectman Lyman that the Board approve the above request with the disapproval of the No Parking on the Bartlet Street side of the Park and that the DJ hours end at 9:30 p.m. The motion was seconded by Selectman Major voted and approved 4-0-1 (Selectman Teichert abstaining.)

B. One-Day All-Alcoholic Beverage License

It was moved by Selectman Lyman that the Board approve the request of Todd Richardson, on behalf of the Andover Firemen's Relief Association, 32 North Main Street, Andover, for a one-day all-alcoholic beverage license for use on Friday, February 2, 2007 at the Andover Town House from 6:00 P.M. to Midnight for the Annual Firemen's Ball.

The request has been reviewed and approved by the Town Clerk subject to the condition that all other requirements of the Town are met prior to the issuance of the license.

The motion was seconded by Selectman Hess, voted and approved 4-0-1, Selectman Teichert abstaining.

C. Common Victualler Licenses

a. **Sharron Tirone, 294 Main Street, Amesbury, MA**

It was moved by Selectman Hess that the Board approve the request Sharron Tirone, 294 Main Street, Amesbury, MA, is applying for a Common Victualler license for use at the Ballardvale Café, 195 Andover Street.

This request has been reviewed and approved by the Town Clerk subject to the condition that all other requirements of the Town are met prior to the issuance of the licenses.

The motion was seconded by Selectman Lyman, voted and approved 5-0.

It was moved by Selectman Hess that the Board approve the Victualler license renewal for 2007: FAME Food Management, Inc. d/b/a FAME Food Management, Inc. at IRS Andover, 310 Lowell Street.

This request has been reviewed and approved by the Town Clerk subject to the condition that all other requirements of the Town are met prior to the issuance of the licenses.

The motion was seconded by Selectman Teichert, voted and approved 5-0.

VIII. Approval of Consent Agenda Items (Cont.)

D. Automatic Amusement/Entertainment License

It was moved by Selectman Major that the Board approve the request of the Town Clerk Randy Hanson who presented the following Automatic Amusement/Entertainment License for 2007: Papa Gino's, Inc., d/b/a Papa Gino's, Shawsheen Plaza - Entertainment and/or Juke Box - Juke Box - Weekdays and Sunday Special Hours. The request has been reviewed and approved by the Town Clerk subject to the condition that all other requirements of the Town are met prior to the issuance of the license.

January 8, 2007 (Cont.)

The motion was seconded by Selectman Hess, voted and approved 5-0.

**IX. Approval of Minutes from Previous Meeting**

It was moved by Selectman Major and seconded by Selectman Hess that the Board approves the minutes of the December 11, 2006 - Joint Meeting with the School Committee. The motion was seconded by Selectman. After one correction, the motion was voted and approved 5-0.

It was moved by Selectman Hess and seconded by Selectman Major that the Board approves the minutes of the December 18, 2006 - Regular Meeting. After corrections noted, the motion was voted and approved 5-0.

**X. Sewer Commissioners**

It was moved by Selectman Hess that the Board adjourns to Sewer Commissioners. The Motion was seconded by Selectman Major voted and approved 5-0 by roll call vote, Selectmen Lyman, Teichert, Hess, Major, and Chairman Vispoli in favor of the motion.

It was moved by Selectman Hess that the Board approve the following requests for connection to the new sanitary system:

15 Appletree Lane - TM 42, TL 13  
5 Blueberry Circle - TM 43, TL 24-L  
9 Blueberry Circle - TM 43, TL 24-J  
7 College Circle - TM 44, TL 42  
1 Haven Drive - TM 45, TL 62  
139 Hidden Road - TM 79, TL 6  
180 Holt Road - TM 43, TL 46  
191 Holt Road - TM 60, TL 33  
201 Holt Road - TM 60, TL 31  
24 Ivy Lane - TM 44, TL 15  
23 Marie Drive - TM 5, TL 45  
21 Orchard Crossing - TM 80, TL 35  
7 Peach Tree Path - TM 82, TL 47  
395 South Main Street - TM 81, TL 30  
16 Suncrest Road - TM 62, TL 6  
20 Suncrest Road - TM 62, TL 7  
24 Suncrest Road - TM 62, TL 8  
8 Vine Street - TM 43, TL 49  
43 Wildwood Road - TM 61, TL 21  
61 Wildwood Road - TM 45, TL 53

**X. Sewer Commissioners (Cont.)**

The motion was seconded by Selectman Major, voted and approved 5-0.

It was moved by Selectman Hess that the Board consider the following requests for connection to the existing sewer system:

69 Ballardvale Road - TM 98, TL 5-B  
60 Canterbury Street - TM 87, TL 4  
4 Mulberry Circle - TM 190, TL 22  
16 North Main Street - TM 38, TL 10  
8 Orchard Street - TM 60, TL 11-A  
5 Prides Circle - TM 76, TL 22

**January 8, 2007 (Cont.)**

18 Spring Grove Road - TM 76, TL 29  
100 Woburn Street - TM 120, TL 1-A

The motion was seconded by Selectman Major, voted and approved 5-0.

It was moved by Selectman Hess that the Board adjourns as Sewer Commissioners and return to Regular Meeting. The motion was seconded by Selectman Major, voted and approved 5-0 by roll call Selectmen Lyman, Teichert, Hess, Major and Chairman Vispoli in favor.

XI. **Adjournment/Executive Session - 9:35 p.m.**

It was moved by Selectman Major and seconded by Selectman Lyman that the Board goes into Executive Session to discuss pending litigation, land acquisition and collective bargaining strategy, not to return at 9:35 p.m.. The motion was seconded by Selectman Hess voted and approved 5-0 by roll call vote, Selectmen Lyman, Teichert, Hess, Major and Chairman Vispoli in favor.

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Elizabeth A. Kochakian  
Recording Secretary